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STATE MINING AND GEOLOGY BOARD  
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## **CONSTRUCTION AGGREGATE RESOURCES FRESNO PRODUCTION-CONSUMPTION REGION**

### **TITLE 14, NATURAL RESOURCES DIVISION 2, DEPARTMENT OF CONSERVATION CHAPTER 8, MINING AND GEOLOGY SUBCHAPTER 1, STATE MINING AND GEOLOGY BOARD ARTICLE 2, AREAS DESIGNATED TO BE OF REGIONAL SIGNIFICANCE SECTION 3550.13**

## **NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** that the State Mining and Geology Board (SMGB) proposes to amend the regulations described below after considering all comments and recommendations regarding the proposed action.

### **PROPOSED REGULATORY ACTION**

The SMGB proposes to amend § 3550.13 to the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1, Article 2. These regulations will clarify and make specific proposed changes recommended by the State Geologist to those mineral lands designated by the State Mining and Geology Board as having regional significance.

### **PUBLIC HEARING AND WRITTEN COMMENT PERIOD**

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a hearing on June 22, 2000 if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be

*The Mission of the State Mining and Geology Board is to Represent the State's Interest in the Development, Utilization and Conservation of Mineral Resources; Reclamation of Mined Lands; Development of Geologic and Seismic Hazard Information; and to Provide a Forum for Public Redress*

barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 5:00 P.M. June 19, 2000. The SMGB will consider only relevant comments received at the SMGB office by that time.

## **AUTHORITY AND REFERENCE**

The SMGB is proposing to adopt these regulations that amend § 3550.13 to Title 14, Division 2, Chapter 8, Article 2 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act of 1975 (PRC § 2710 et seq.) specifically under PRC § 2793. These proposed regulations clarify and make specific the SMGB's actions on PRC § 2790 to specify mineral land designation boundaries.

## **INFORMATIVE DIGEST**

Article 6 of the Surface Mining and Reclamation Act of 1975, commencing with § 2790, provides for the State Mining and Geology Board (SMGB), based upon mineral information from the State Geologist pursuant to subdivision (c) of Public Resources Code § 2761, to adopt in regulation specific geographic areas of the state as areas of statewide or regional mineral resource significance and specify the boundaries of those areas. Section 2793 of the Public Resources Code also provides that the SMGB may, by regulation adopted after a public hearing, terminate, partially or wholly, the designation of any area of statewide or regional significance on a finding that the direct involvement of the board no longer is required.

At its December 7, 1999 regular business meeting, the Joint Committee reviewed an analysis by the Division of Mines and Geology of the findings of its Open File Report 99-02, Update of Mineral Land Classification; Aggregate Minerals in the Fresno Production-Consumption Region, California. The Committee agreed with the findings of the Division's analysis that all or part of specific geographic sectors designated in California Code of Regulations (CCR) § 3550.13 as mineral resource areas should be removed from designation status because mineral resources in these sectors have been exhausted. On January 13, 2000 the SMGB approved the Committee's recommendation to remove specific mineral designated sectors from CCR § 3550.13.

The proposed regulation revises CCR § 3550.13 to reflect the deletion from the designation maps of the following sectors, or portions of sectors: A 48-acre part of Sector K-10a; a 7-acre part of Sector K-10b; a 64-acre part of the western half of Sector S-5a; a 76-acre part of the eastern half of Sector S-5a; all of Sector S-6 (313 acres); all of Sector S-7b (25 acres); all of Sector S-10a (29 acres); a 179-acre part of Sector S-10b; a 165-acre part of Sector S-11b; a 19-acre center part of Sector S-14; a 7-acre eastern part of

Sector S-14; a 36-acre southern part of Sector S-19; and a 134-acre northern part of Sector S-19.

## **ALTERNATIVES STATEMENT**

The State Mining and Geology Board must determine that no alternative considered by the SMGB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

The SMGB staff has made the following preliminary determinations:

- Mandate on local agencies and school districts: The SMGB staff has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or on local school districts.
- Cost or savings to any State agency: No savings or additional expenses to state agencies are identified.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.
- Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.
- Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the State have been identified.
- Significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The SMGB staff has determined that no adverse impacts to California businesses result from the adoption of this proposed regulatory language.
- Potential cost impact on private persons or directly affected businesses: SMGB staff has determined that there is no impact on private persons or businesses. These proposed regulations do not mandate actions upon private persons or businesses.
- Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:
  - Create nor eliminate jobs within California;
  - Create new nor eliminate existing businesses within California;

- Expand businesses currently doing business in California.
- Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.
- Effects on small businesses: The SMGB staff has determined that the adoption of these proposed regulations does not affect small businesses because this language only places into code the scientific findings and conclusions of the State Geologist and the State Mining and Geology Board, which mandates that these findings and conclusions be made available to the general public, including small businesses, before local land use decisions are made.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS**

An interested person may request a copy of the proposed regulations and the Initial Statement of Reasons, or direct questions about the proposed regulations and Initial Statement of Reasons and inspect all supplemental information, upon which the regulations are based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Room 2436, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday. Copies of the proposed regulations and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at:

**<http://www.consrv.ca.gov/smgb>**

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public comment period, the SMGB may adopt, as final, the proposed regulations substantially as described in this Notice and Informative Digest. Copies of these regulations, as finally adopted, will be sent to all persons on the SMGB's public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to these regulations are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation.

Thereafter, the SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulations will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 2, § 3550.13.

## **CONTACT PERSON**

Statements, arguments or contentions must be submitted in writing in order for them to be considered by the SMGB. To be included in the mailing list and to receive updates on this rulemaking, please contact the SMGB at (916) 322-1082. Please direct all written comments, procedural inquiries and requests for documents to:

Ms. Kit Gonzales, Executive Assistant  
State Mining and Geology Board  
801 K Street, MS 24-05  
Sacramento, California 95814

# INITIAL STATEMENT OF REASONS

## GENERAL PURPOSE AND CONDITION ADDRESSED

Article 6 of the Surface Mining and Reclamation Act of 1975, commencing with § 2790, provides for the State Mining and Geology Board (SMGB), based upon mineral information from the State Geologist pursuant to subdivision (c) of Public Resources Code § 2761, to adopt in regulation specific geographic areas of the state as areas of statewide or regional mineral resource significance and specify the boundaries of those areas. Section 2793 of the Public Resources Code also provides that the SMGB may, by regulation adopted after a public hearing, terminate, partially or wholly, the designation of any area of statewide or regional significance on a finding that the direct involvement of the board no longer is required.

At its December 7, 1999 regular business meeting, the Joint Committee reviewed an analysis by the Division of Mines and Geology of the findings of its Open File Report 99-02, Update of Mineral Land Classification: Aggregate Minerals in the Fresno Production-Consumption Region, California. The Committee agreed with the findings of the Division's analysis that all or part of specific geographic sectors designated in California Code of Regulations (CCR) § 3550.13 as mineral resource areas should be removed from designation status because mineral resources in these sectors have been exhausted, and no longer require the direct involvement of the board.

On January 13, 2000 the SMGB approved the Committee's recommendation to remove specific mineral designated sectors from CCR § 3550.13.

## SPECIFIC PURPOSE

The proposed amendment to § 3550.13 is intended to clarify and make specific those mineral lands that are to remain designated by the State Mining and Geology Board as having regional significance within the Fresno Production-Consumption Region following the adoption of changes recommended by the State Geologist. These proposed regulations are contained under Article 2, titled Areas Designated to be of Regional Significance.

The proposed regulation revises CCR § 3550.13 to reflect the deletion from the designation maps of the following sectors, or portions of sectors: A 48-acre part of Sector K-10a; a 7-acre part of Sector K-10b; a 64-acre part of the western half of Sector S-5a; a 76-acre part of the eastern half of Sector S-5a; all of Sector S-6 (313 acres); all of Sector S-7b (25 acres); all of Sector S-10a (29 acres); a 179-acre part of Sector S-10b; a 165-acre part of Sector S-11b; a 19-acre center part of Sector S-14; a 7-acre eastern part of Sector S-14; a 36-acre southern part of Sector S-19; and a 134-acre northern part of Sector S-19.

CCR § 3550.13 indicates the reference to revised February 2000 maps, from the original and outdated July 1988 maps. The maps form an integral part of the regulation.

## **STATEMENT OF NECESSITY**

The Surface Mining and Reclamation Act of 1975, § 2793, provides that the State Mining and Geology Board may, by regulation adopted after a public hearing, terminate, partially or wholly, the designation of any area of statewide or regional significance on a finding that the direct involvement of the board is no longer required. Based on recommendations from the State Geologist, the SMGB determined that its direct involvement with specific areas, whose resources are depleted, is no longer required.

## **IDENTIFICATION OF TECHNICAL / THEORETICAL / EMPIRICAL STUDY, REPORTS, OR DOCUMENTS UPON WHICH THE SMGB HAS RELIED**

The SMGB has relied upon the Surface Mining and Reclamation Act (Public Resources Code § 2710 et seq.), the Division of Mines and Geology findings in its Open File Report 99-02, Update of Mineral Land Classification; Aggregate Minerals in the Fresno Production-Consumption Region, California, and testimony received during public meetings of the SMGB on December 7, 1999 and January 13, 2000.

# PROPOSED TEXT

## **§ 3550.13 Construction Aggregate Resources, Fresno Production-Consumption Region.**

*A set of maps identifying the exact locations of the designated resource areas entitled, "Regionally Significant Construction Aggregate Resource Areas in the Fresno Production-Consumption Region," ~~July 1988~~ February 2000, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

*The construction aggregate deposits in the following areas are designated as being of regional significance:*

*Sector K – Alluvial deposits of the Kings River between Avocado Lake on the northeast and the Southern Pacific Railroad tracks on the southwest.*

*Sector S – Portions of the San Joaquin River floodplain between Friant Dam and Highway 99.*

Note: Authority cited: Section 2790, 2793, Public Resources Code; Reference: Sections 2726, 2761-63 and 2790-93, Public Resources Code.